IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 307 of 1999

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

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1	Whether Reporters of Local Papers may be allowed to see the judgement ?
2	To be referred to the Reporter or not ?
3	Whether their Lordships wish to see the fair copy of the judgement ?
4	Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 of any order made thereunder ?
5	Whether it is to be circulated to the civil judge ?

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SURESH CHAMANLAL RACHCHH &2 - Petitioner(s)

Versus

REGISTRAR, COOP SOCIETIES &2 - Respondent(s)

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Appearance :

MR PH PATHAK for Petitioner No(s).: 1,2.

MR KL PANDYA A.G.P. for Respondent No(s).: 1.

MR YS MANKAD for Respondent No(s).: 2.

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CORAM :HON'BLE MR JUSTICE KS JHAVERI

Date : 15/06/2005

ORAL JUDGMENT

1. The petitioners by way of this petition have prayed to quash and set aside the impugned order dated 7.1.1999 passed by respondent no.2 whereby the benefits granted to the petitioners were withdrawn, and have further prayed that the respondents be directed to grant all the consequential

benefits.

2. The short facts of the case are that the petitioners are working as clerks in the respondent Bank on daily wage basis. Petitioner no. 1 was appointed on probation vide order dated 1.1.1990 and petitioner no. 2 was employed since the year 1988. It is the case of the petitioners that they both were confirmed as clerks w.e.f. 1.3.1993. It is the case of the petitioners that since other employees appointed on probation were granted benefits of yearly increment, they were also entitled to for the benefits of increment from January 1990 and April, 1990 respectively. It is further the case of the petitioners that since they were not extended the benefits of yearly increment on completion one year of service from their probation, they made a representation to the respondents. It is the case of the petitioners that on realizing their mistake, respondent no. 2 vide order dated 14.11.1998 fixed their pay and released the increment for the period in question. The petitioners further submitted that respondent no. 2 thereafter issued another order dated 7.1.1998 cancelling earlier order of fixation of pay granted vide order dated 14.11.1998. Hence, this petition.

2.1. Mr. Pathak learned advocate for the petitioners has contended that the benefits were granted to the petitioners vide order dated 14.11.1998 and the same were withdrawn immediately without issuing any notice to the petitioners. He has, therefore, submitted that the impugned order is violative of principles of natural justice and the benefits granted in favour of the petitioners cannot be withdrawn without notice.

2.2. As against that Mr. Mankad learned advocate for respondent no. 2 has contended that since the petitioners were not entitled to get these increments, the order dated 14.11.1998 is said to be erroneous and against the rules in force. Thus, with a view to correct the administrative order, the impugned order 7.1.199 was passed, and there was no need to issue notice to the petitioners.

3. I have heard the learned advocates for the respective parties and have perused the relevant material on record. It appears that the benefits were granted by mistake, but the fact remains that the petitioners were neither issued notice nor they were heard before passing the impugned order. Therefore, I am of the opinion that the petitioners are required to be given a chance of hearing.

Accordingly, the impugned order is required to be quashed and set aside and the matter is required to be remanded to respondent no. 2 for fresh decision.

4. In the premises aforesaid, on the facts and circumstances of the case, the impugned order dated 7.1.1999 passed by respondent no.2 is quashed and set aside. The matter is remanded to respondent no. 2 for deciding afresh after hearing the petitioners. However, it is made clear that respondent no. 2 shall before passing any order shall issue notice to the petitioners..

5. Rule is made absolute to the aforesaid extent with no order as to costs.

[K.S. JHAVERI, J.]

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